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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 170329334-7665-01]

RIN 0648-XF578

Western and Central Pacific Fisheries for Highly Migratory Species; 2017 Bigeye Tuna Longline Fishery Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; fishery closure.

SUMMARY: NMFS is closing the U.S. pelagic longline fishery for bigeye tuna in the western and central Pacific Ocean because the fishery has reached the 2017 catch limit. This action is necessary to ensure compliance with NMFS regulations that implement decisions of the Western and Central Pacific Fisheries Commission (WCPFC).

DATES: Effective 12:01 a.m. local time September 1, 2017, 2017, through December 31, 2017.

ADDRESSES: NMFS prepared a plain language guide and frequently asked questions that explain how to comply with this rule; both are available at <https://www.regulations.gov/docket?D=NOAA-NMFS-2017-0092>.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, NMFS
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SUPPLEMENTARY INFORMATION: Pelagic longline fishing in the western and central Pacific Ocean is managed, in part, under the Western and Central Pacific Fisheries Convention Implementation Act (Act). Regulations governing fishing by U.S. vessels in accordance with the Act appear at 50 CFR part 300, subpart O.

NMFS established a calendar year 2017 limit of 3,138 metric tons (mt) of bigeye tuna (*Thunnus obesus*) that may be caught and retained in the U.S. pelagic longline fishery in the area of application of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention Area) (82 FR 36341, August 4, 2017). NMFS monitored the retained catches of bigeye tuna using logbook data submitted by vessel captains and other available information, and determined that the 2017 catch limit would be reached by September 1, 2017.

In accordance with 50 CFR 300.224(e), this rule serves as notification to fishermen, the fishing industry, and the general public that the U.S. longline fishery for bigeye tuna in the Convention Area will be closed during the dates provided in the **DATES** heading. The fishery is scheduled to

reopen on January 1, 2018. This rule does not apply to the longline fisheries of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands, collectively "the territories," as described below.

During the closure, a U.S. fishing vessel may not retain on board, transship, or land bigeye tuna caught by longline gear in the Convention Area, except that any bigeye tuna already on board a fishing vessel upon the effective date of the restrictions may be retained on board, transshipped, and landed, provided that they are landed within 14 days of the start of the closure, that is, by September 15, 2017. This 14-day landing requirement does not apply to a vessel that has declared to NMFS, pursuant to 50 CFR 665.803(a), that the current trip type is shallow-setting.

During the effective period of the restrictions, longline-caught bigeye tuna may be retained on board, transshipped, and landed if the fish are caught by a vessel with a valid American Samoa longline permit, or if the fish are landed in the territories. In either case, the following conditions must be met:

- 1) The fish is not caught in the U.S. Exclusive Economic Zone (EEZ) around Hawaii;

2) Other applicable laws and regulations are followed;
and

3) The vessel has a valid permit issued under 50 CFR 660.707 or 665.801.

Bigeye tuna caught by longline gear during the closure may also be retained on board, transshipped, and/or landed if they are caught by a vessel that is included in a valid specified fishing agreement under 50 CFR 665.819(c), in accordance with 50 CFR 300.224(f)(1)(iv).

During the closure, a U.S. vessel is also prohibited from transshipping bigeye tuna caught in the Convention Area by longline gear to any vessel other than a U.S. fishing vessel with a valid permit issued under 50 CFR 660.707 or 665.801.

The catch limit and this closure do not apply to bigeye tuna caught by longline gear outside the Convention Area, such as in the eastern Pacific Ocean. To ensure compliance with the restrictions related to bigeye tuna caught by longline gear in the Convention Area, however, the following requirements apply during the closure period (see 50 CFR 300.224):

1) Longline fishing both inside and outside the Convention Area is not allowed during the same fishing trip. An exception would be a fishing trip that is in

progress on September 1, 2017. In that case, the catch of bigeye tuna must be landed by September 15, 2017; and

2) If a longline vessel fishes outside the Convention Area and the vessel then enters the Convention Area during the same fishing trip, the fishing gear must be stowed and not readily available for fishing in the Convention Area. Specifically, hooks, branch lines, and floats must be stowed and the mainline hauler must be covered.

The above two additional prohibitions do not apply to the following vessels:

1) Vessels on declared shallow-setting trips pursuant to 50 CFR 665.803(a); and

2) Vessels operating in the longline fisheries of the territories. This includes vessels included in a valid specified fishing agreement under 50 CFR 665.819(c), in accordance with 50 CFR 300.224(f)(1)(iv). This group also includes vessels with valid American Samoa longline permits and vessels landing bigeye tuna in one of the territories, as long as the bigeye tuna were not caught in the EEZ around Hawaii, the fishing was compliant with all applicable laws, and the vessel has a valid permit issued under 50 CFR 660.707 or 665.801.

Classification

There is good cause under 5 U.S.C. 553(b) (B) to waive prior notice and the opportunity for public comment on this action, because it would be unnecessary and contrary to the public interest. This rule closes the U.S. longline fishery for bigeye tuna in the western and central Pacific as a result of reaching the applicable bigeye tuna catch limit. The limit is codified in Federal regulations and is based on agreed limits established by the Western and Central Pacific Fisheries Commission. 50 CFR 300.224(e) notifies the public that fishing prohibitions will be placed in effect when the limit is reached. NMFS forecasts that the fishery will reach the 2017 limit by September 1, 2017. Longline fishermen have been subject to longline bigeye tuna limits in the western and central Pacific since 2009. They have received ongoing, updated information about the 2017 catch and progress of the fishery in reaching the Convention Area limit via the NMFS web site, social media, and other means. This constitutes adequate advance notice of this fishery closure. Additionally, the publication timing of this rule provides longline fishermen with seven days advance notice of the closure date, and allows two weeks to return to port and land their catch of bigeye tuna.

For the reasons stated above, there is also good cause under 5 U.S.C. 553(d) (3) to waive the 30-day delay in effectiveness for this temporary rule. NMFS must close the fishery as soon as possible to ensure that fishery does not exceed the catch limit. According to NMFS stock-status-determination criteria, bigeye tuna in the Pacific Ocean are currently experiencing overfishing. NMFS implemented the catch limit to reduce the effects of fishing on bigeye tuna and restore the stock to levels capable of producing maximum sustainable yield on a continuing basis. Failure to close the fishery immediately would result in additional fishing pressure on this stock, in violation of Federal law and regulations that implement WCPFC decisions.

This action is required by 50 CFR 300.224 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 6901 *et seq.*

Dated: August 9, 2017.

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